

HOUSE RESEARCH

Bill Summary

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Overview

This bill regulates actions commenced to collect a purchased debt.

A “purchased debt” is an uncollected debt of a person or entity that has been sold to another creditor, usually for an amount significantly less than the actual value of the debt. Upon taking ownership of the debt, the new creditor is entitled to collect the amount owed from the original debtor. For example, a credit card company might sell long-unpaid debts owed by a cardholder to a debt collection agency, so that the credit card company would no longer carry the unpaid debt on their books, allowing the specialized debt collection agency, to pursue the debtor for the amount of the debt.

This bill would require certain steps be taken prior to a creditor filing an action to collect a purchased debt.

Section

1 Action to collect purchased debt.

Subdivision 1. Commencement of action or arbitration proceeding. Requires any person seeking to collect a purchased debt (usually the creditor) to provide a written notice to the debtor, at least 30 days before the suit is to be filed, stating the intent to file a lawsuit related to the debt. Specific content requirements for the notice are provided in the bill, including informing the debtor of his or her right to dispute the existence of the debt, and that, depending on the time that has passed since the debt was incurred or last payment made, an action to collect the debt may be barred entirely.

An action to collect a purchased debt is prohibited for 30 days after the notice is provided to the debtor, or if the debtor disputes the debt, until the person investigates the reasons for the dispute of the debt and responds in writing to the debtor. An action would also be prohibited if the statute of limitations period has expired on collecting the debt.

This section also requires additional documentation be submitted with the formal

summons and complaint, including a copy of the assignment or other writing establishing an unbroken chain of ownership between the debtor and the person seeking to collect the debt, evidence of the original debt, signed by the debtor or substantiated under oath by the seller, and an affidavit stating information about the last time a payment was made by the debtor on the debt.

Subdivision 2. Statute of limitations. Provides that certain actions or events do not affect the statute of limitations period for filing an action to collect the debt.

Subdivision 3. Default judgment. Provides certain documentation requirements before a default judgment may be entered in an action against a debtor.

Subdivision 4. Remedies. Provides remedies for violating the notice and documentation requirements contained in the bill. The debtor would be entitled to actual, statutory, incidental, and consequential damages, costs and disbursements, and reasonable attorney fees. Standards for the statutory damages award are provided in the bill.

This section also permits a debtor to sue for a declaratory judgment, or injunctive or other equitable relief. Standards for injunctive relief are provided.

A provision related to remedies in a class action suit is also provided.

A person filing a false affidavit under this section would be subject to a civil fine of \$5,000.